

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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In Re:

**DAVID HERZ**

**Chapter 7**

**Case No. 11-42921-CEC**

Debtor.

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**NOTICE OF MOTION FOR AN ORDER REDUCING, RECLASSIFYING AND/OR  
EXPUNGING CLAIM NO.'S 6 & 7**

**NOTICE OF MOTION TO RECONSIDER & REARGUE THE JUNE 9, 2015  
ORDER DIRECTING TURNOVER OF ESTATE PROPERTY**


**PLEASE TAKE NOTICE** that upon the annexed affirmation, dated June 1, 2017, of MICHAEL L. WALKER, ESQ., attorney for DAVID HERZ by his administratrix LIBI HERZ (the "Debtor") in the above captioned Chapter 7 proceeding, the Affidavit of LIBI HERZ sworn to on June 12, 2017, and the Affidavit of ESTHER HERZ sworn to on June 12, 2017, the undersigned will move before the Honorable Carla E. Craig, United States Bankruptcy Judge, Eastern District of New York, at the Court house located at 271 Cadman Plaza East, Brooklyn, New York, on the 18<sup>th</sup> day of ~~July~~ June 2017, at 11:00<sup>am</sup>, or as soon thereafter as counsel may be heard, for the entry of an Order pursuant to Section 502 of title 11 of the United States (the "Bankruptcy Cod" and Rule 3007 of the Federal Rules of Bankruptcy Procedure, reducing, reclassifying and/or expunging Claim No.'s 6 & 7 and for the entry of an Order to alter or amend a judgment dated June 9, 2015 pursuant to Federal Rule of Civil Procedure 59(e), 54(a) and Bankruptcy Rule 9023 & 7054(a) in accordance with relief requested in the Debtor's Application.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief sought in the Application must conform to the Federal rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, as modified by any administrative orders entered in this case, and be filed with the Bankruptcy Court electronically in accordance with Local Rules, by registered users of the Bankruptcy Court's case filing system and, by all other parties in interest, on a scanned image of the filing, with a hard copy delivered directly to Chambers, and be served in accordance with Local Rules and upon the Law Offices of Michael L. Walker, Esq., 9052 Fort Hamilton Parkway, Second Floor Suite, Brooklyn, New York, 11209 and the Office of the United States Trustee, 271 Cadman Plaza East, Brooklyn, New York received by no later than 4 p.m. June \_\_\_\_, 2017.

PLEASE TAKE FURTHER NOTICE that only those objections that have been timely filed may be considered by the Court.

Dated: Brooklyn, New York  
June 6, 2017

Respectfully Submitted,



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Michael L. Walker, Esq.  
*Attorney for Debtor*  
9052 Fort Hamilton Pkwy  
Second Floor Suite  
Brooklyn, NY 11209  
Phone: (718) 680-9700

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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In Re:

**AFFIRMATION IN SUPPORT**

**DAVID HERZ**

**Chapter 7**

**Case No. 11-42921-CEC**

Debtor.

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MICHAEL L. WALKER, ESQ., an attorney duly licensed to practice law in the State of New York and admitted to practice in the Eastern District of New York, under the penalties of perjury, deposes and says:

1. I am the attorney for DAVID HERZ, by his administratrix, LIBI HERZ, the debtor herein, and as such I am familiar with the facts and circumstances of the instant bankruptcy proceeding. I make this affirmation in support of the instant motion that seeks to object to claim Claim #6 filed by CHASE BANK USA, N.A. and Claim #7 filed by CHASE BANK USA, N.A., (Copies of these claims are attached hereto and marked as **Exhibit A** and **Exhibit D**).

**STANDARD FOR ALLOWING PROOFS OF CLAIMS**

2. Bankruptcy Rule 3001(f) provides that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. However, in order to receive the benefit of the proof of claim's prima facie validity, the proof of claim must set forth the facts necessary to support the claim. *In re Marino*, 90 B.R. 25

(Bank. D. Conn. 1988); *In re Chain*, 255 B.R. 279 (Bank. D. Conn. 2000).

Additionally, Bankruptcy Rule 3001(c) provides that when a claim is based upon a writing, the original or a duplicate of that writing ***shall*** be filed with the proof of claim. (emphasis added). The court in *In re Henry*, 311 B.R. 813 (Bankr. W.D. Wash, 2004), ruled that a creditor, at minimum, should file with its proof of claim a sufficient number of monthly account statements to show how the total amount asserted has been calculated, and a copy of the agreement authorizing the charges and fees included in the claim. In the absence of that minimum evidentiary presentation, the creditor's claim should be disallowed.

**CLAIM #6 CHASE BANK USA, N.A.**

3. The proof of claim filed by CHASE BANK USA, N.A. (hereinafter "CHASE 6"), in the amount of \$5,759.96, has clearly failed to meet the documentation requirements in order to have its claim allowed. Please find a copy of the proof of claim attached hereto and incorporated herein as **Exhibit A**. Specifically, it fails to include a copy of the credit card agreement or a record of any transaction that is related to the claim. Finally, it attaches a brief Account Summary which merely includes a brief summary of the amount due with the debtor's name and address but fails to include any account statements to show how this amount has been calculated, and fails to include a copy of the agreement authorizing the charges and fees included in the claim.

4. Furthermore, pursuant to the attached affidavits of the debtor's administratrix and spouse, LIBI HERZ and ESTHER HERZ, their previous counsel, Mr. Robert J. Musso, Esq., had communications with Chase in which its purported that due to the death of the debtor, Chase no longer has a claim on its credit cards, which was the basis for the proof of claim. A photocopy of Mr. Musso's letter to Chase is attached hereto and incorporated herein as **Exhibit B**. Furthermore, Chase sent correspondence to the ESTHER HERZ confirming she has been removed from the credit account. Please see attached correspondence from Chase to ESTHER HERZ attached hereto and incorporated herein as **Exhibit C**.

5. As such, Chase 6 claim is not only not entitled to *prima facie* validity under Bankruptcy Rule 3001(f) but as its claim fails to include the minimum evidentiary documentation to have its claim declared valid. As such, its claim should be disallowed in its entirety.

**CLAIM #7 CHASE BANK USA, N.A.**

6. The proof of claim filed by CHASE BANK USA, N.A. (hereinafter "CHASE 7"), in the amount of \$1,872.54, has clearly failed to meet the documentation requirements in order to have its claim allowed. Please find a copy of the proof of claim attached hereto an incorporated herein as **Exhibit D**. Specifically, it fails to include a copy of the credit card agreement or a record of any transaction that is related to the claim. Finally, it attaches a brief Account Summary which merely includes a brief summary

of the amount due with the debtor's name and address but fails to include any account statements to show how this amount has been calculated, and fails to include a copy of the agreement authorizing the charges and fees included in the claim.

7. Furthermore, pursuant to the attached affidavits of the debtor's administratrix and spouse, LIBI HERZ and ESTHER HERZ, their previous counsel, Mr. Robert J. Musso, Esq., had communications with Chase in which its purported that due to the death of the debtor, Chase no longer has a claim on its credit cards, which was the basis for the proof of claim. A photocopy of Mr. Musso's letter to Chase is attached hereto and incorporated herein as **Exhibit B**. Furthermore, Chase sent correspondence to the ESTHER HERZ confirming she has been removed from the credit account. Please see attached correspondence from Chase to ESTHER HERZ attached hereto and incorporated herein as **Exhibit E**.

8. As such, Chase 6 claim is not only not entitled to *prima facie* validity under Bankruptcy Rule 3001(f) but as its claim fails to include the minimum evidentiary documentation to have its claim declared valid. As such, its claim should be disallowed in its entirety.

9. In conclusion, the debtors maintain that they have produced sufficient evidence to rebut the validity of the claims filed by Chase 6 and Chase 7.

**MOTION TO RECONSIDER THE JUNE 9, 2015 ORDER DIRECTING  
TURNOVER OF ESTATE PROPERTY**

10. Rule 59, made applicable to this proceeding pursuant to Bankruptcy Rule 9023, permits a party to make a motion “to alter or amend a judgment.” Fed. R. Civ. P. 59(e). Pursuant to Rule 54(a), made applicable to this matter by Bankruptcy Rule 7054(a), the Order is a “judgment” that may be reconsidered under Rule 59 because it is an “order from which an appeal lies.” Fed. R. Civ. P. 54(a); Fed. R. Bankr. P. 7054.

11. Rule 59(e) does not provide specific grounds for amending or reconsidering a judgment. See Fed. R. Civ. P. 59(e). The Second Circuit has held that “[t]he major grounds justifying reconsideration are an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice.” *Virgin Atl. Airways, Ltd. v. Nat’l Mediation Bd.*, 956 F.2d 1245, 1255 (2d Cir. 1992) (internal quotations and citation omitted); *Doe v. New York City Dep’t of Social Servs.*, 709 F.2d 782, 789 (2d Cir. 1983). Under the “clear error” standard, relief is “appropriate only when a court overlooks ‘controlling decisions or factual matters that were put before it on the underlying motion’ and which, if examined, might reasonably have led to a different result.” *Corrines v. Am. Physicians Ins. Trust*, 769 F. Supp. 2d 584, 593-94 (S.D.N.Y. 2011) (quoting *Eisemann v. Greene*, 204 F.3d 393, 395 n.2 (2d Cir. 2000)). “[R]econsideration will generally be denied unless the moving party can point to controlling

decisions or data that the court overlooked – matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.” *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995). It is well settled that “[a] motion for reconsideration is neither an occasion for repeating old arguments previously rejected nor an occasion for making new arguments that could have been previously advanced.” *Associated Press v. U.S. Dep’t of Def.*, 395 F. Supp. 2d 17, 19 (S.D.N.Y. 2005).

12. “A motion for reconsideration is ‘an extraordinary remedy to be employed sparingly in the interests of finality and conservation of scarce judicial resources.’” *Corrines*, 769 F. Supp. 2d at 593-94 (quoting *In re Initial Public Offering Sec. Litig.*, 399 F. Supp. 2d 298, 300 (S.D.N.Y. 2005), *aff’d sub nom. Tenney v. Credit Suisse First Boston Corp.*, Nos. 05 Civ. 3430, 05 Civ. 4759, & 05 Civ. 4760, 2006 WL 1423785, at \*1 (2d Cir. 2006)). See also *Schonberger v. Serchuk*, 742 F. Supp. 108, 119 (S.D.N.Y. 1990) (motions made pursuant to Rule 59(e) must adhere to stringent standards to prevent “wasteful repetition of arguments already briefed, considered and decided”). The determination of whether a motion for reconsideration should be granted is within the sound discretion of the court. See *Spa 77 G L.P. v. Motiva Enters. LLC*, 772 F. Supp. 2d 418, 437 (E.D.N.Y. 2011).

13. The June 9, 2015 Order from this honorable Court directs that Peter Robert Alfred Birchwood as Trustee for the Estate of Ellen Ruth

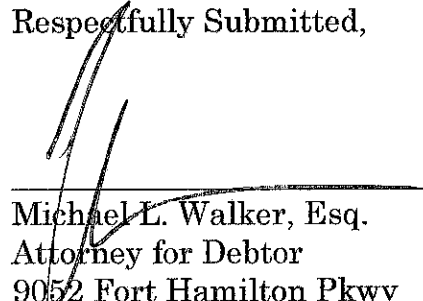


Silberman (the "Silberman Estate") turn over to the trustee certain property allegedly belonging to the estate. Please see a copy of the order attached hereto and incorporated herein as **Exhibit F**. The debtor by his administratrix claims that this property is exempt, abandoned, outside the applicable statute of limitations and not an asset of the estate.

**WHEREFORE**, your affirmant respectfully requests an order expunging Claim #6 filed by Chase Bank USA, N.A. and Claim #7 filed by Chase Bank USA, N.A. and an Order altering and amending the June 9, 2015 Order of this Court and staying the transfer of the subject assets until this motion is resolved, together with any other and further relief that this court deems just and proper.

Dated: Brooklyn, New York  
June 1, 2017

Respectfully Submitted,



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Michael L. Walker, Esq.  
Attorney for Debtor  
9052 Fort Hamilton Pkwy  
Second Floor Suite  
Brooklyn, NY 11209  
Phone: (718) 680-9700

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

In Re:

AFFIDAVIT IN SUPPORT

DAVID HERZ

Chapter 7

Case No. 11-42921-CEC

Debtor.

STATE OF NEW YORK }  
COUNTY OF KINGS } ss.:

LIBI HERZ, being duly sworn and under the penalties of perjury  
deposes and says:

1. I am the administratrix of the debtor's estate in the above entitled  
bankruptcy proceeding and as such I am familiar with the facts and circumstances of this  
action. I make this affidavit in support of the instant motion objecting to the proofs of  
claim filed by Chase Bank USA, N.A. and asking to reconsider the June 9, 2015 Order.

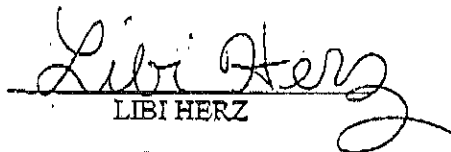
2. I have reviewed the proofs of claim submitted by this Creditor. I object to  
the debt. Furthermore, pursuant to my previous attorney's communications with Chase it  
is purported that Chase no longer has a claim on its credit cards which is the basis for its  
proof of claim.

3. I object to the inheritance funds held by Peter Robert Alfred Birchwood as  
Trustee for the Estate of Ellen Ruth Silberman being transferred to the Chapter 7 trustee,  
Richard E. O'Connell. I believe these funds to be exempt, abandoned and/or outside of  
any applicable statute of limitations to be considered an asset of the debtor's estate.

4. Furthermore, as there are little to no claims against the debtor's estate I believe this acquisition of these funds is an exercise to line the pockets of the Chapter 7 trustee as to administration expenses to be billed against the debtor's estate.

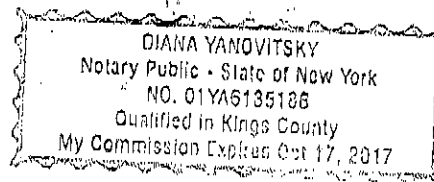
5. My mother is in frail health and I believe we are being taken advantage as there is no debts or assets of the estate to be truly administered.

WHEREFORE, your affirmant respectfully requests an order expunging Claim #6 and Claim #7 filed by Chase Bank USA, N.A. and an Order altering and amending the June 9, 2015 Order of this Court and staying the transfer of the subject assets until this motion is resolved, together with any other and further relief that this court deems just and proper.

  
LIBI HERZ

Sworn to before me this  
12 day of June, 2017

  
Notary Public



UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

In Re:

AFFIDAVIT IN SUPPORT

DAVID HERZ

Chapter 7

Cas. No. 11-42921-CEC

Debtor.

STATE OF NEW YORK }  
COUNTY OF KINGS } ss.:

ESTHER HERZ, being duly sworn and under the penalties of perjury  
deposes and says:

1. I am the widow of the debtor in the above entitled bankruptcy proceeding  
and as such I am familiar with the facts and circumstances of this action. I make this  
affidavit in support of the instant motion objecting to the proofs of claim filed by Chase  
Bank USA, N.A. and to reconsider the June 9, 2015 Order.

2. I have reviewed the proofs of claim submitted by this Creditor. I object to  
the debt. Furthermore, pursuant to my previous attorney's communications with Chase it  
is purported that Chase no longer has a claim on its credit cards which is the basis for its  
proof of claim. Neither Chase nor other creditors made claims against my husbands estate  
before the Trustee gave them notice.

3. I object to the inheritance funds held by Peter Robert Alfred Birchwood as  
Trustee for the Estate of Ellen Ruth Silberman being transferred to the Chapter 7 trustee,  
Richard E. O'Connell. In 2014 I was contact by the trustee and he demanded \$100,000  
or he would reopen my case and make my life miserable. I believe these funds to be

exempt, abandoned and/or outside of any applicable statute of limitations to be considered an asset of the debtor's estate.

4. Furthermore, as there are little to no claims against the debtor's estate I believe this acquisition of these funds is an exercise to line the pockets of the Chapter 7 trustee as to administration expenses to be billed against the debtor's estate.

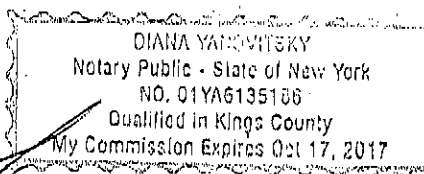
5. I am in frail health and I believe we are being taken advantage as there is no debts of the estate to be truly administered. I want my fees and expenses associated with this litigation reimbursed by the trustee.

WHEREFORE, your affirmant respectfully requests an order expunging Claim #6 and Claim #7 filed by Chase Bank USA, N.A. and an Order altering and amending the June 9, 2015 Order of this Court and staying the transfer of the subject assets until this motion is resolved, together with any other and further relief that this court deems just and proper

E. HERZ  
ESTHER HERZ

Sworn to before me this  
12 day of June, 2017

Diana Yankovitsky  
Notary Public



UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In Re:

DAVID HERZ

Debtor.  
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Chapter 7

Case No. 11-42921cec

CERTIFICATE OF SERVICE

State of New York }

County of Kings }

I, Elizabeth Graves, hereby declare, under penalty of perjury under the laws of the United States of America, and pursuant to 28 U.S.C. Sec. 1746, that on June 13, 2017, I caused to be served a copy of the within Debtor's Motion to Expunge Claim No.'s 6 & 7 and Motion to Reconsider on the attached list of interested parties via ECF.

Dated: June 13, 2017  
Brooklyn, New York

Elizabeth Graves  
Elizabeth Graves

TO:

Richard Klass, Esq.  
16 Court Street, 28th Floor  
Brooklyn, NY 11241

Rawle Pantaleon, Esq.  
175 Crown St  
Brooklyn, NY 11225

Bruce Weiner, Esq.  
Rosenberg Musso & Weiner LLP  
26 Court Street  
Suite 2211  
Brooklyn, NY 11242

Richard E. O'Connell, Esq.  
Yost & O'Connell  
Post Office Box 405  
150-12 14th Avenue  
Whitestone, NY 11357

Moshie Solomon, Esq.  
Law Offices of Moshie Solomon, P.C.  
5 Penn Plaza  
23rd Floor  
New York, NY 10001

U.S. Trustee  
United States Trustee  
271 Cadman Plaza East  
Suite 4529  
Brooklyn, NY 11201

A



B10 (Official Form 10) (04/13)

UNITED STATES BANKRUPTCY COURT Eastern District of New York		PROOF OF CLAIM
Name of Debtor: <b>David Herz</b>	Case Number: <b>11-42921</b>	
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <b>Chase Bank USA, N.A.</b>		
Name and address where notices should be sent: <b>Chase Bank USA, N.A., Attn: Correspondence Dept. P.O. Box 15298 Wilmington, DE 19850-5298</b>  Telephone number: _____ email: _____		<b>COURT USE ONLY</b> <input type="checkbox"/> Check this box if this claim amends a previously filed claim.  Court Claim Number: _____ (If known)  Filed on: _____
Name and address where payment should be sent (if different from above): <b>Chase Bank USA, N.A. PO Box 15145 Wilmington, DE 19850-5145</b>  Telephone number: (800) 545-5659 email: _____		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
1. Amount of Claim as of Date Case Filed: \$ <u>5,759.96</u>		
If all or part of the claim is secured, complete item 4.		
If all or part of the claim is entitled to priority, complete item 5.		
<input checked="" type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: <u>Credit Card</u> (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor: <b>2 6 8 7</b>	3a. Debtor may have scheduled account as:  (See instruction #3a)	3b. Uniform Claim Identifier (optional):  (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff. Attach required redacted documents, and provide the requested information.  Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____  Value of Property: \$ _____  Annual Interest Rate: _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable (when case was filed)		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____  Basis for perfection: _____  Amount of Secured Claim: \$ _____  Amount Unsecured: \$ _____
5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.		
<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).  <input type="checkbox"/> Up to \$12,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507 (a)(7).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier - 11 U.S.C. § 507 (a)(4).  <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507 (a)(8).	<input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507 (a)(5).  <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507 (a)(____).  Amount entitled to priority: \$ _____
*Amounts are subject to adjustment on 4/01/16 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.		
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)		

**CHASE BANK USA, N.A.  
BANKRUPTCY RULE 3001 STATEMENT**

Case #	11-42921
Debtor Name	David Herz
Joint Debtor Name	
Last 4 of Account Number	2687
Itemization of Debt pursuant to Bankruptcy Rule 3001(c)(2)(A)	
Principal	\$5,699.73
Interest	\$60.23
Fees	\$0.00
Expenses	\$0.00
Other Charges	\$0.00
Claim Amount	\$5,759.96
Additional Information for Claim Based on Open-End or Revolving Consumer Credit Agreement pursuant to Bankruptcy Rule 3001(c)(3)	
Entity from whom Chase Bank USA, N.A. purchased the account	N/A
Entity to whom debt was owed at the time of the last transaction	Chase Bank USA, N.A.
Date of last transaction	4/11/2011
Last payment date	3/21/2011
Charge-off/Charged to profit & loss date	6/17/2011

B

ROSENBERG, MUSSO & WEINER, LLP  
*Attorneys At Law*

BRUCE WEINER  
ROBERT J. MUSSO

LOUIS P. ROSENBERG  
(1908-1997)

ROBERT NADEL

26 COURT STREET  
SUITE 2211  
BROOKLYN, N.Y. 11242

(718) 855-6840  
FAX NO. (718) 625-1966

Email: [rmwlaw@att.net](mailto:rmwlaw@att.net)

May 8, 2015

**Fax Only: (866) 643-9628**

Chase Bank  
Correspondence Dept.

**Re: David Herz  
Bankruptcy Case #: 14-42921**

Dear Madam/Sir:

This office represents Esther Herz, the widow of David Herz. I also now represent Mrs. Herz in her husband's bankruptcy case. Last night I had lengthy phone conversations with Matt, Will and Amal of Chase. Amal suggested I send this letter as the legal representative. David Herz filed chapter 7 bankruptcy on April 8, 2011. Mr. Herz died on January 4, 2013 ( copy of death certificate Ex. 1). Chase filed proof of claim #6 on February 23, 2015 (Ex. 2) and claim #7 on February (Ex. 3). Chase did not learn of Mr. Herz's death until recently – a time after Chase filed the claims in the bankruptcy case.

Mrs. Herz has been advised that due to her husband's death, Chase no longer has a claim on its credit cards, which was the basis for the proofs of claim.

With this letter Esther Herz is requesting Chase declare its claim a nullify and withdraw the proofs of claims filed in the bankruptcy court.

Mrs. Herz appreciates the actions of Chase to resolve this matter.

Very truly yours,

  
Robert J. Musso

RJM:cc

cc: Esther Herz

C

**Cardmember Service**  
Post Office Box 15298  
Wilmington, DE 19850-5298  
1-800-436-7937



05/26/2015

ESTHER HERZ  
1148 E 10TH ST  
BROOKLYN NY 11230

RE: 426690203602XXXX

Dear Esther Herz:

This letter is confirmation that you have been removed from the credit card account indicated above.  
This change was effective on April 18, 2011.

If you have additional questions, please call us at the toll-free number noted above. For your convenience, we are available 24 hours a day to assist you.

Sincerely,

Kristi Carrihan  
Senior Servicing Specialist

CUST8650

2589688088\_1.doc

1445674326

OK 10/20/15 10:29 AM 2/27 11:00 AM 2/27

Cardmember Service  
Post Office Box 15298  
Wilmington, DE 19850-5298  
1-800-436-7937



05/26/2015

ESTHER HERZ  
1148 E 10TH ST  
BROOKLYN NY 11230

RE: 426690203602XXXX (2687)

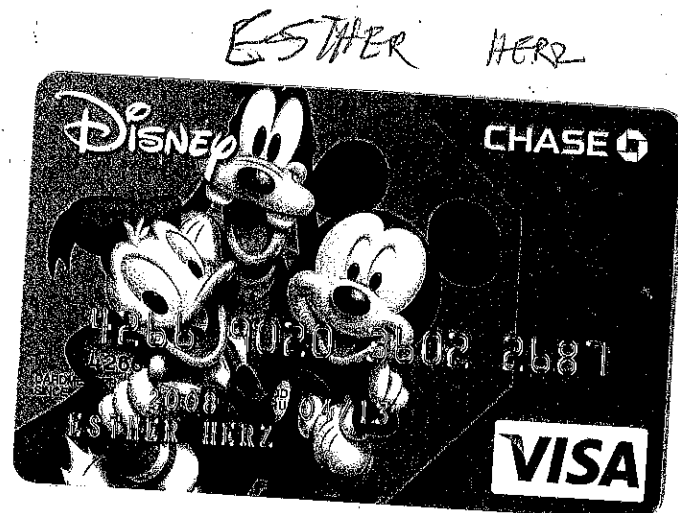
Dear Esther Herz:

This letter is confirmation that you have been removed from the credit card account indicated above. This change was effective on April 18, 2011.

If you have additional questions, please call us at the toll-free number noted above. For your convenience, we are available 24 hours a day to assist you.

Sincerely,

Kristi Carnnahan  
Senior Servicing Specialist



D



UNITED STATES BANKRUPTCY COURT		Eastern District of New York	PROOF OF CLAIM
Name of Debtor: David Herz		Case Number: 11-42921	
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.			
Name of Creditor (the person or other entity to whom the debtor owes money or property): Chase Bank USA, N.A.			
Name and address where notices should be sent: Chase Bank USA, N.A., Attn: Correspondence Dept. P.O. Box 15298 Wilmington, DE 19850-5298 Telephone number: email:			<b>COURT USE ONLY</b> <input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: (if known) Filed on:
Name and address where payment should be sent (if different from above): Chase Bank USA, N.A. PO Box 15145 Wilmington, DE 19850-5145 Telephone number: (800) 545-6659 email:			<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
1. Amount of Claim as of Date Case Filed: \$ 1,872.54			
If all or part of the claim is secured, complete item 4.			
If all or part of the claim is entitled to priority, complete item 5.			
<input checked="" type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.			
2. Basis for Claim: Credit Card (See instruction #2)			
3. Last four digits of any number by which creditor identifies debtor: 8 1 2 3	3a. Debtor may have scheduled account as: (See instruction #3a)	3b. Uniform Claim Identifier (optional): (See instruction #3b)	
4. Secured Claim (See instruction #4) Check the appropriate box. If the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ Annual Interest Rate % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable (when case was filed)		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ Basis for perfection: Amount of Secured Claim: \$ Amount Unsecured: \$	
5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.			
<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier - 11 U.S.C. § 507 (a)(4).	<input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507 (a)(5).	
<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507 (a)(7).	<input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507 (a)(8).	<input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507 (a)( ).	
		Amount entitled to priority: \$	
*Amounts are subject to adjustment on 4/01/16 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.			
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)			

**CHASE BANK USA, N.A.  
BANKRUPTCY RULE 3001 STATEMENT**

Case #	11-42921
Debtor Name	David Herz
Joint Debtor Name	
Last 4 of Account Number	8123
Itemization of Debt pursuant to Bankruptcy Rule 3001(c)(2)(A)	
Principal	\$1,822.56
Interest	\$24.98
Fees	\$25.00
Expenses	\$0.00
Other Charges	\$0.00
Claim Amount	\$1,872.54
Additional Information for Claim Based on Open-End or Revolving Consumer Credit Agreement pursuant to Bankruptcy Rule 3001(c)(3)	
Entity from whom Chase Bank USA, N.A. purchased the account	N/A
Entity to whom debt was owed at the time of the last transaction	Chase Bank USA, N.A.
Date of last transaction	4/12/2011
Last payment date	3/30/2011
Charge-off/Charged to profit & loss date	6/12/2011

**E**

Cardmember Service  
Post Office Box 15298  
Wilmington, DE 19850-5298  
1-800-436-7937



05/26/2015

ESTHER HERZ  
1148 E 10TH ST  
BROOKLYN NY 11230

RE: 418582171723XXXX (8123)

Dear Esther Herz:

This letter is confirmation that you have been removed from the credit card account indicated above. This change was effective on April 13, 2011.

If you have additional questions, please call us at the toll-free number noted above. For your convenience, we are available 24 hours a day to assist you.

Sincerely,

Kristi Cannahan  
Senior Servicing Specialist

Cardmember Service  
Post Office Box 15298  
Wilmington, DE 19850-5298  
1-800-436-7937



05/26/2015

ESTHER HERZ  
1148 E 10TH ST  
BROOKLYN NY 11230

RE: 418582171723XXXX (8123)

Dear Esther Herz:

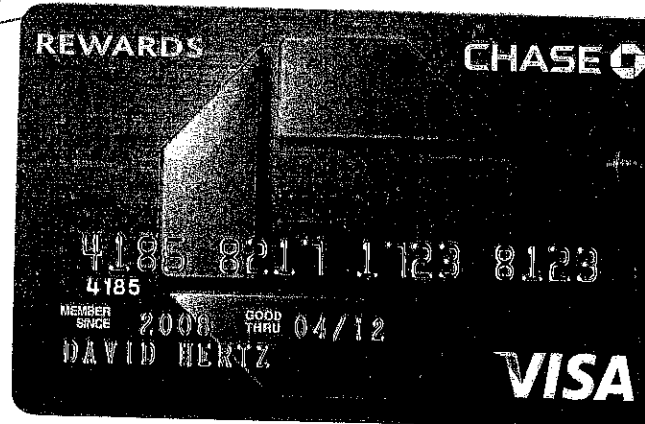
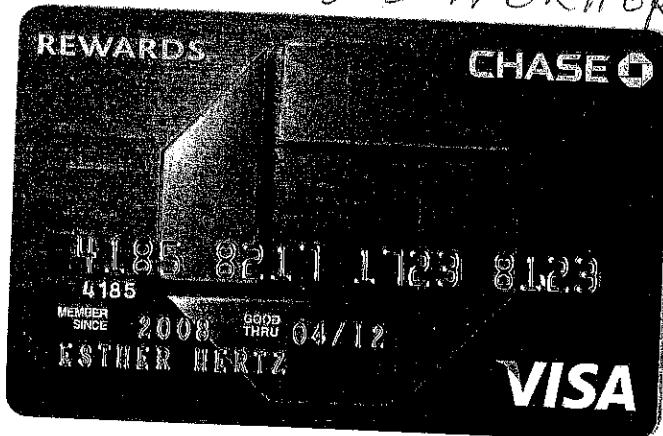
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Sincerely,

Kristi Carnnahan  
Senior Servicing Specialist

*Link P.D.D. RB DAVID HERZ*  
*ESTHER HERZ*  
*~~ESTHER HERZ~~*



**F**

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK-----X  
In re:

DAVID HERZ,

Chapter 7

Case No. 11-42921 (CEC)

Debtor.  
-----X**ORDER DIRECTING TURNOVER OF ESTATE PROPERTY**

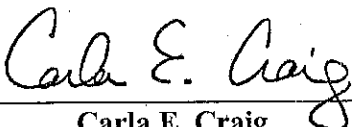
Upon the motion, dated March 24, 2015 (the "Motion"), of Richard E. O'Connell, Chapter 7 Trustee for the estate (the "Estate") of David Herz (the "Debtor"), for entry of an order pursuant to 11 U.S.C. §§ 541(a) and 542(a) directing Peter Robert Alfred Birchwood as Trustee for the Estate of Ellen Ruth Silberman (the "Silberman Estate") to turn over to the Trustee certain property of the Estate; and it appearing that the relief requested in the Motion is appropriate and warranted under the circumstances set forth in the Motion; and this Court having considered the Motion and the exhibits attached thereto; and a hearing on the Motion having been held before this Court on May 28, 2015 and the record thereof; and all objections to the Motion having being heard by this Court and overruled;

NOW THEREFORE,

IT IS ORDERED, that Peter Robert Alfred Birchwood as Trustee for the Estate of Ellen Ruth Silberman be and hereby is directed to turn over and remit any and all funds that the Debtor is entitled to receive from the Silberman Estate directly to Richard E. O'Connell as Chapter 7 Trustee for the Estate of David Herz.

Dated: Brooklyn, New York  
June 9, 2015



  
Carla E. Craig  
United States Bankruptcy Judge